

January 27, 2006

Chairman Linda W. Cropp
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Chairman Cropp:

You submitted a January 20, 2006 letter to Mayor Williams listing twelve issues that have been raised by the Council with respect to the ballpark lease. In the mediation being conducted by Dennis Archer among the District, the D.C. Sports and Entertainment Commission (the "Commission"), the Washington Nationals (the "Team") and Major League Baseball the parties discussed the letter with you at length during the mediation sessions the twelve issues that you raised. Mr. Archer also met separately with you and other Councilmembers to discuss these concerns.

This letter is a response by the parties in mediation to all twelve issues. It has been reviewed and adopted by the mediator. Most importantly:

- the Commission is undertaking to build the ballpark using contractors under a guaranteed maximum price contract that will be subject to Council approval (Except to assure that the Team's rights under the BSA are protected, the Team is not a party to the negotiations between the Commission and the contractor concerning the guaranteed maximum price. The matter is to be negotiated between the Commission and the contractor);
- the amount of special baseball funds certified by the Chief Financial Officer is more than sufficient to assure that no general funds or special tax assessment on D.C. residential taxpayers will need to be used for the stadium;
- the District will benefit from ballpark related development rights; and
- in an effort to avoid arbitration by achieving Council approval of the Lease and to speed selection of an owner, the Team has strengthened its commitment to District community benefits, including:
 - a robust youth baseball initiative that supports a strong inner city ballfield and educational program on par with the program supported by MLB in Harlem, including contributions of \$3.5 million consisting of \$1 million in matching funds plus \$250,000 per year for 10 years;
 - 10,000 free tickets available for youth;

- a commitment to recruit District residents for employment at all levels of Team operations in the District; and
- a commitment by Major League Baseball to hold a meeting of all MLB owners in the District before the summer of 2008.

Having addressed all of the concerns raised by the Council in your letter, we hope that you can now secure the support of a majority of the Council and approve the ballpark lease. As detailed below, we firmly believe this transaction has been fairly and fully negotiated in good faith and is in the best interests of all parties including the residents of the District of Columbia.

GENERAL RESPONSE

Before turning to your specific questions, it may be helpful to consider the issues raised in your letter in the context of the economics of the ballpark transaction set forth in the Baseball Stadium Agreement (BSA) that the District, the Commission and the Team executed in September 2004 and in the Ballpark Omnibus Financing and Revenue Act of 2004 (the Ballpark Act) enacted by the Council in 2004.

Fundamental to the District's ballpark financing plan is a structure that: (1) limits the District's borrowing to \$535 million for the stadium project; (2) does not permit the use of general revenue funds or a special tax assessment on D.C. residential taxpayers to pay for the stadium project; (3) produces ample revenues from dedicated revenue sources to more than pay for the stadium project; and (4) generates new economic and tax benefits for the City that far exceed the District's contribution to the stadium. These points are detailed below.

Protections on the District's Stadium Costs

To address the Council's concerns about controlling construction costs for the stadium, the Commission is working to complete with construction companies a guaranteed maximum price contract (GMP). The contract will guarantee a price covering both the "hard costs" and "soft costs" for constructing the stadium within the Project Budget. This will place the risk of cost overruns on the construction team, and not the District, for amounts over the guaranteed price. This contract, once completed, will be submitted to the Council for approval.

To address the Council's issues about potential overruns for land acquisition and environmental cleanup, the Anacostia Waterfront Corporation (AWC) has agreed to assume the responsibility for any land and/or environmental costs above the budgeted amounts. This agreement is explained further under question 5 below.

Overall, these measures should assure the Council that District taxpayers will not face an open checkbook for the stadium.

The Original Revenue Sources Produce Substantially More than the Cost of the Stadium Project

The financing plan has been misconstrued. From the beginning, the baseball stadium was to be financed solely with dedicated revenues from the Team, from baseball fans attending games at the stadium, and from ballpark fees and utility taxes imposed on large businesses in the District. This has not changed. The plan produces a present value of \$891 million against projected “hard” and “soft” costs of \$631 million. Of this, \$461 million will be contributed by baseball, leaving the remaining \$170 million to be provided by the ballpark fee and utility taxes. The four revenue streams are detailed as follows:

- Team Rent of \$92 Million. For the entire lease term of 30 years, the Team is obligated to pay rent, starting at \$3.5 million and increasing in future years. The District’s Chief Financial Officer (“CFO”) determined that the average annual rent to be paid by the Team will be \$6 million. Today’s value, or the present value, collected over the next 30 years is, \$92 million.
- Taxes Collected on Sales Generated by the Team of \$369 Million. The District will collect taxes on all gate receipts, concessions, merchandise and parking revenues, first from the Nationals games at RFK, and then at the new stadium. Some may argue that these taxes represent a contribution by the District. The fact is that the sales taxes, which are paid by fans attending Nationals games, are imbedded in a set price that would otherwise go entirely to the Team. The taxes result in the District collecting 10% of the cost of each ticket, parking space, hot dog and t-shirt sold at the stadium. The District’s CFO determined that over the 30 years of the ballpark lease, the Team will generate average stadium sales taxes of \$24 million each year. On a present value basis, the amount collected is \$369 million. Moreover, approximately 71% of the fans attending Nationals games live outside the District of Columbia. Thus, a very large amount of spending comes from residents of Virginia, Maryland and other non-District residents.
- Ballpark Fee of \$215 Million. The District imposed a special tax on approximately 1500 of the largest businesses in the District. The District’s CFO determined that the average taxes collected through this Ballpark Fee will total \$14 million per year. If it is necessary for the Ballpark Fee to remain in place for a 30-year period, on a present value basis, the amount collected is \$215 million. The District has retained the right to reduce this fee if the money will no longer be necessary.
- Utility Taxes of \$215 Million. The District levied a utility tax on businesses, including the federal government buildings in the District. The District’s CFO determined that the average taxes collected through this utility tax will total \$14 million per year, of which about 50% comes from federal government buildings. If it is necessary for the utility tax to remain in place for 30 years, on a present value basis, the amount collected is \$215 million.

The four revenue streams from the original financing plan add up to \$891 million, on a present value basis. Baseball is contributing \$461 million and the District’s combined

Ballpark Fee and Utility Tax contributes the remaining \$170 million of the Project costs, with \$260 million available to be rebated.

Additional Revenues Derived from Baseball Negotiations

The BSA required the Team to pay rent and its fans to pay stadium-related taxes. In December of 2005, at the request of the Council, the Nationals agreed to make an additional cash contribution of \$20 million. The Nationals also agreed to resolve a dispute relating to development rights and parking revenues on the stadium site. These negotiations confirmed to the District air rights above the ballpark program valued in excess of \$65 million, non-game day parking revenues with a present value over 30 years of \$25 million, and the additional taxes derived from the on-site development with a projected present value of at least \$50 million. This \$140 million in revenue from clarified development rights, parking revenues and incremental taxes exists only as a result of baseball.

Even if one excludes the \$140 million, the contributions made directly by the Team and its fans have a present value to the District of at least \$481 million over a 30-year period:

BASEBALL CONTRIBUTIONS		
SOURCE	PRESENT VALUE	FLOW OF FUNDS
Team Rent	\$ 92 million	\$6 million/year
Stadium Sales Taxes	\$369 million	\$24 million/year
Cash Contribution	\$20 million	One time contribution
TOTAL	\$481 million	\$30 million/year plus \$20 million up-front contribution

There will be a Prudent Cushion of Available Revenues

Looking at the funding plan on a cash flow basis, there is a prudent cushion of revenues every year. To fund stadium construction and development, the District intends to sell revenue bonds in the approximate amount of \$535 million. These bonds will not be general obligations of the District and will not be payable from the General Fund of the District. They will be paid solely from the four original sources of revenue described above. The District's CFO has estimated that the revenues from the Team rent, stadium taxes, ballpark fees and utility taxes will total \$58 million annually, but that it will require only \$42 million annually to pay

principal and interest on the bonds as well as to fund ongoing capital improvements and insurance on the ballpark. In other words, even without the cash contribution, development rights and parking revenues, there will be excess revenue of \$16 million each year. This makes it possible to either rebate the Ballpark Fee or pay off the bonds early.

Thus, the District and the Commission, with the cooperation of the Team, have created protections against cost overruns to permit the construction of the stadium and the surrounding infrastructure without spending any money from the District's General Fund, and at no cost to residential taxpayers.

Additional Economic Benefits of the Ballpark

The ballpark brings additional benefits to the District. Specifically, the Mayor's December 19, 2005 letter to Councilmember Ambrose (posted on the District's website) details other positive economic impacts of the ballpark noted by the CFO and the already begun development in the area around the ballpark, including:

- the creation of 4,400 construction jobs, nearly 400 stadium operations jobs, and 19,000 jobs in the retail, office, hotel, parking, and residential sectors;
- contracts for local, small, and disadvantaged businesses totaling \$249 million from the ballpark construction alone and another \$420 million from the surrounding development; and
- more than \$500 million in incremental tax revenues over ten years and \$2.5 billion over thirty years in addition to the \$24 million per year in ballpark related taxes that are being used to pay for the ballpark.

These figures alone outpace nearly every other major public/private development project undertaken with the Council's support in the last decade, including the MCI Center, Gallery Place, and the Mandarin Hotel.

Moreover, the Ballpark Act already passed by the Council includes another major component that will yield direct and tangible benefits to the District, namely the \$450 million Community Benefit Fund, which will support other major District priorities - including \$125 million for school modernization, \$45 million for libraries, \$45 million for retail developments in Ward 8, \$50 million for infrastructure projects, \$10 million for the National Capital Medical Center, \$12 million for recreation and education facilities, and the balance for other projects in other Wards.

RESPONSE TO SPECIFIC ISSUES

We now address each of the issues you raised in your letter.

1. *"No residential taxpayer will pay anything for baseball."*

The Council has made it clear that: (1) no residential taxpayer in the District is to pay any tax to fund the stadium project – except for the sales taxes paid for baseball tickets or items purchased at the stadium, and (2) ; no contribution for the construction of the stadium, infrastructure or land acquisition will come from the District General Fund or any special assessment against any individual District residents. Thus, the District is providing that only the sources described above (a ballpark fee on large businesses in the District, a utility tax on business in the District (including the federal government), Team rent or contributions, taxes on stadium-related revenues, and, if necessary, proceeds from parking or air rights over baseball program components) will be promised or used to repay the costs of buying the land and building the stadium. As explained on page 2, these sources produce significantly more than is needed to buy the land and construct the baseball stadium. The District expects to pay all District-obligated expenses related to the stadium – the Nationals must pay for items the Team requests over and above what the District has agreed to provide - and have an annual \$16 million cushion.

Nonetheless, the District and MLB are continuing to explore other savings both to reduce the cost of the stadium and to provide more cushion for any unexpected costs, including (1) replacing the “private financing” with revenue bonds, (2) eliminating some redundancies in soft costs, and (3) obtaining more cost-effective insurance coverage than the insurance program now under consideration.

2. “No more money shall be allocated for baseball other than the \$535 million already authorized and the following baseball-related income: \$37 million collected, plus any interest, in the Ballpark Revenue Fund in 2005; \$30 million in interest earned on the borrowing; \$9 million in premium received on the sale of the bonds due to investment grade rating; [the] \$20 million and any additional contribution from the team, or third parties.”

We described above the substantial baseball-related funding available to build the stadium. With the use of the construction price guarantee described in response to question 6, below, there is more than adequate coverage for the costs of land acquisition and stadium construction. Furthermore, as is typical in project financings, available revenues must be placed in specified escrow or other funds to assure that they are used for the project. Finally, additional revenues will be available from the Anacostia Waterfront Corporation to provide further cushion (see response to question 5 below).

3. “All local, small and disadvantaged business contracting and employment requirements will continue.”

The District, the Commission and the Team share a strong commitment in favor of local, small and disadvantaged business enterprise (LSDBE) contracting and employment. The Lease and Construction Administration Agreement (CAA) are only one of several ways that the parties are advancing this goal.

The Commission’s best opportunity to advance this goal is in the procurement and hiring of local and minority contractors for the ballpark project. In accordance with the Ballpark

Act passed by the Council in 2004 and the Lease and CAA, the Commission will award at least 50% of the work on the ballpark project to LSDBEs, including at least 35% of that amount to local small or local disadvantaged enterprises.

The Team's opportunity to advance this goal is in hiring for its front office and ballpark operations staff. To this end, the Lease contains provisions, now strengthened in response to Chairman Cropp's letter, that specifically require the Team to: (i) recruit residents of the District of Columbia for employment throughout all levels of the Team's operations in the District; (ii) afford local, small and disadvantaged businesses in the District of Columbia an equal opportunity to compete for business for the supply of goods and services to the Team; and (iii) comply with Major League Baseball's Diverse Business Partners Program (DBP Program).

Of note, the DBP program is an industry leading effort, in partnership with both the National Minority Supplier Development Council and Women's Business Enterprise National Council, to promote diversity of vendor and suppliers in ballpark construction and operations. Through the DBP effort, in 2004 and 2005 MLB has been selected as one of the top 50 corporations in the nation for multicultural businesses by DiversityBusiness.com, the largest member organization of diversity businesses in the United States, as well as the nation's largest multicultural online portal for diversity businesses and large organizational buyers.

4. *"The commitment from baseball for local ownership of the team..."*

MLB's written ownership guidelines already provide for this and have guided the selection of owners for many years. Although there have been some exceptions, a long history shows that MLB teams have local ownership because it considers such owners to be in the best interests of the sport.

With respect to new ownership of the Team following execution of the Lease and CAA, eight separate groups have submitted bids to purchase the Club. The MLB Constitution, the ownership guidelines and the best interests of the sport will guide the selection of a new owner for the Team based on a recommendation by the Commissioner and a vote of 75% of the MLB clubs.

"...for tax purposes, the Team will be based in the District."

The BSA and the Lease make the Stadium the venue for the Team's home games and operations, including its offices. The RFK Lease has a similar provision. And Section 2.1 of the Non-Relocation Agreement provides "the Team shall maintain its principal place of business in the District of Columbia as a registered business in good standing under all Applicable Laws." The Team has been complying with this requirement and last year paid taxes to the District in the approximate amount of \$465,000.

5. *"Land and environmental costs of the baseball stadium will be capped and guaranteed by third parties, such as Major League Baseball, potential owners or developers."*

The District has selected the site and, through its eminent domain powers, controls acquisition of the land on which the stadium will be built. Because it has assumed all control over construction, the District must ready the site for construction, including environmental remediation. Under the BSA, the District remains responsible for payment of these costs.

The CFO has certified, based on third-party estimates, that the \$110 million allocated in the Project Budget is sufficient to cover the land and environmental costs of the baseball stadium. Even so, to insulate the general fund from any risk that the \$110 million will not be enough, the Anacostia Waterfront Corporation (AWC) will assume the responsibility for any land and/or environmental costs above the budgeted amounts. The AWC will meet those responsibilities, if any, by using environmental insurance, payments from local developers for the rights to use air rights above the ballpark program, and incremental tax revenue/PILOTS (payments in lieu of taxes) generated by that development. The AWC may also use these revenues to provide parking on the site, including parking required by the baseball program. These deals can be finalized only after the Lease is approved and the ballpark design has become more detailed.

6. *"Construction costs of the stadium will be guaranteed so that taxpayers will not face an open checkbook problem. The checkbook will be closed."*

The Commission is working to reconcile both the requirements of the BSA and the Council's desire to control construction costs by obtaining a guaranteed maximum price (GMP) contract from construction companies. The contract will guarantee a price covering both the hard costs and soft costs for constructing the stadium within the Project Budget. This contract, once completed, will be submitted to the Council for approval.

7. *"All development rights in the area outside the baseball footprint, and taxes generated therefrom, will benefit the District and its residents, not baseball."*

Under the BSA and the Stadium Lease, the Team has no rights to develop outside the stadium site and is not entitled to any off-site revenues. In addition, neither the District nor the AWC will utilize any revenues generated from development in the area outside of the stadium site to subsidize costs inside the footprint. In fact the current configuration will dramatically accelerate revenues available for other important District needs.

8. *"The District will have development rights (on top of parking required by baseball) on the baseball footprint, which will be directed to protect taxpayers from any cost overruns."*

The Lease grants the Commission rights to non-competing development on the baseball stadium site. Those rights may result in more than 1,000,000 square feet of commercial development for the benefit of the District. On the southern portion of the site, the Commission and the Team will jointly evaluate and pursue development opportunities.

9. *"The \$20 million team contribution to the stadium project budget shall be applied only to previously approved costs within the initial project budget as designated by the Sports and Entertainment Commission"*

In December, after considerable discussion, MLB and the Team agreed that the Team would contribute an additional \$20 million to the project. The Team asked that the contribution be used for fixtures and equipment. The parties did not intend that this would limit the Commission's use of the \$20 million or give the Team any greater control over the type and cost of fixtures and equipment. But to eliminate any concerns to the contrary, the Team has agreed to clarify expressly that the \$20 million would be used only for previously approved costs for equipment and fixtures, and thereafter, any other construction costs authorized by the Commission in accordance with the Construction Administration Agreement.

"... and may be increased by the Team's new owners."

The Lease and Construction Administration Agreement already provide that if the new owner of the Team seeks to modify the design or construction of the stadium or related facilities, and as a result increases the cost of construction, the Team shall be responsible for those costs. Any such request by the new owner would be subject to the normal MLB approval requirements applicable to all MLB Clubs.

10. *"Certain community benefit obligations will be clarified and strengthened."*

The Team has always been willing to demonstrate its commitment to the District through contractual community obligations. The Team proved that in its first season by, among other ways, establishing a charitable foundation and giving free tickets to disadvantaged children.

a) *"An initiative to rebuild youth baseball infrastructure in the District..."*

The Team shall endeavor to maximize benefits to rebuild youth baseball infrastructure for residents of the District through Major League Baseball's various affiliated charitable organizations and programs such as: Major League Baseball Charities, Reviving Baseball in Inner Cities, Baseball Tomorrow Fund, Join the Major Leagues @ Your Library, Breaking Barriers, Jackie Robinson Foundation, and Commissioner's Initiative for Kids. The rebuilding of youth baseball infrastructure in the District includes the renovation of baseball fields, support for baseball clinics and after school programs, and provision of baseball equipment. The Team will also work with the Commission and other charitable organizations to develop a dedicated baseball training and recreation facility in the District that will host baseball-oriented recreation, training and education programs on a year-round basis similar to the well known and highly successful Harlem RBI program. The Team or Team Foundation will commit to provide \$1 million in matching funds plus \$250,000 per year for 10 years for this program.

b) *"Ensuring that the minimum 50 personal public appearances per season by the team, in support of education, youth sports or other public service activities, will take place in the District."*

The Team has agreed to this request.

c) "Substantially increasing the number of regular season tickets for free each year that will be made available to underprivileged District youth accompanied by adult mentors."

The Team agreed to increase the number of free tickets to 10,000, a 25% increase from the Lease as submitted to the Council in December, and more than the number of free tickets actually used by fans at RFK last year.

d) "A commitment to employ District residents at all levels of the Team's operations..."

The Team has taken and will continue to take affirmative steps to: (i) recruit residents of the District for employment at all levels of the Team's operations within the District; and (ii) afford local, small and disadvantaged businesses in the District an equal opportunity to compete for business for the supply of goods and services to the Team.

11. "Failure by the team to pay rent shall include sufficient remedies and penalties to enforce the requirement and shall not trigger a cancellation of the lease that would trigger cancellation of the non-relocation agreement."

These concerns are fully addressed in the Lease. Specifically, if the Team wrongfully fails to pay its rent, the Commission, like any other landlord, has a full range of normal landlord remedies. These include the right to: (i) recover all damages incurred by the Commission as a result of the Team's breach; (ii) collect the rent by setting off against amounts that the Commission may owe to the Team or that the Team may otherwise be entitled to receive under the Lease; or (iii) terminate the Lease upon written notice to the Team.

While the Commission has a right, just like any other landlord, to evict its tenant, it is almost inconceivable that the Commission would ever elect this "nuclear option" remedy for simple non-rent payment given the other remedies at its disposal and the adverse consequences to the District of a Lease termination. And it is most certainly not a remedy the Team itself can invoke by its own failure to pay rent. To emphasize this point for the Council, the parties have added a sentence to this effect at the end of Section 16.1 of the Lease.

As long as the Team continues to play its home games in the ballpark, the ballpark will continue to generate jobs, concession, parking and ticket taxes and other economic activity that far exceed the value to the District of the Team's annual rent. Other straightforward remedies noted above, such as exercising a right of set-off or obtaining a judgment against the Team for money damages in the amount of any unpaid rent, would be the normal means for the Commission to force rent payments by the Team without "cutting off its nose to spite its face."

12) "If the March 1, 2008 deadline for completion of the new stadium is not met despite reasonable best efforts by the District to meet the deadline, the Team will continue to pay rent for playing at RFK Stadium for the first 12 months beyond the deadline."

The Team estimates that it will lose \$40 million per year if it cannot move into the new stadium on time. At the Council's request, last year the Team agreed to give up its right to recover damages if the stadium is not completed in 2008, provided that the Team would be permitted to play the 2008 season at RFK without paying the \$5.3 million in annual rent. Now, after more Council requests, the Team has agreed to pay 50% of the annual rent -- up to \$2.65 million -- for RFK Stadium during the 2008 year should the new ballpark be delayed.

* * *

We trust that this letter is responsive to your concerns. We again reiterate, our strong belief that the overall transaction represents an outstanding, once-in-a-lifetime opportunity for all parties to realize the value of the overwhelming support within the District for the presence of a Major League Baseball team. We trust that this will serve to help show the way forward so that the District and its citizens can forever enjoy all of the financial, employment, recreational, educational, and social benefits of this effort and so that Major League Baseball can move forward confidently with the selection of an ownership group that will be a strong, long-term partner of the District.

Sincerely,

Dennis W. Archer, Mediator

Anthony A. Williams, Mayor of the District of Columbia

Mark H. Tuohey, Chairman, DC Sports & Entertainment Commission

Robert A. DuPuy, President, Major League Baseball